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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,842	12/29/2000	James O'Toole	CIS00-3784	1084

7590

07/27/2005

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EXAMINER
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LE, HIEU C

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/752,842

Applicant(s)

O'TOOLE ET AL.

Examiner

Hieu c. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,8-12,14-16,18-22 is/are rejected.
- 7) ☒ Claim(s) 3,7,13,17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Response to Amendment***

1. The amendment filed 1/24/05 have been entered and made of record.
2. The Applicant 's argument filed 1/24/05 have been fully considered but they considered but they are not persuasive with regard to claims 1,4 for the following reasons:

As to claims 1, & 4 Applicant alleges that " specifically, the Office Action suggests that generation of the Wilby [,]" (p. 10, line 20- page. 11, line 5). The Examiner disagrees. Firstly, the Applicant is respectfully reminded that claim 1 is an independent claim and the limitation [ selectively updates the map of node relationships based on the sequence number in the change relationship signal, as discussed in the specification at page 18: lines 9-25. The node relationships are selectively updated based on which change modification is more recent as indicated by the sequence number (23:20-23)], upon which the applicant relies is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. *In re Van Guens*, 988 F. 2d 1181, 26 USPQ2d 1057 (Fed. Cir 1993).

Secondly, Wilby clearly discloses that user P accesses node B, which modifies its data to indicate that user P can be found directly from indicate that user P can be found directly from node B (col. 8, line 67-col. 6, line 2) i.e. node be updates its stored information about user P to reflect its that change in status of user P node B then passes a change command to its parent node D and D consequently changes its data so that instead of routing calls destined to user P to node A it routes them to node B

(col. 6, lines 3-6) i.e. the change command to node D is to order node D to change and update its stored information about user P to reflect his new status being accessed via node B and not via node A, which means that nodes is done selectively which reads on claim as broadly claimed.

Applicant alleges that " According, its is respectfully [,]" (p. 11, lines 5-16). The Examiner disagrees. As stated above the database information relationships between the nodes is done based on the changes that has taken place, i.e selectively.

***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 21 are not limited to tangible embodiments. In view of Applicant's disclosure, specification page [15], lines [11-12], the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., [readable medium (e.g. one or more CDROM's, diskettes, tapes)]) and intangible embodiments (e.g., a radio wave, an infrared wave, a laser wave, sound wave, or an electrical wave propagated over the Internet).

As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the parent first network node" in lines 5-6. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the parent node is the parent first network node of the first node" in line 11. It is unclear. There is insufficient antecedent basis for this limitation in the claim

Claims 2-7, 12-17 refer to claim 4 rejection.

Claims 2-22 refer to claim 1 rejection.

***Claim Rejections - 35 U.S.C. § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351 (a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1,4-6, 8-11,14-22 are rejected under 35 U.S.C. 102(e) as anticipated by Wilby et al [5,941,955].

As to claim 1, Wilby discloses a method for maintaining a map of node relationships for a network of related nodes, the method comprising the steps of:

detecting a change of a relationship between a first network node and a

second network node having a child relationship to the first network node [in Fig. 1 a user at end node A (first node) connected to a parent node D (second node), moved to another location (change status) such as node S connected to new parent H (col. 5, line 61-col. 6, lines 20)].

generating a change relationship signal indicating the change of the relationship between the first network node and the second network node [ a change command (change relationship signal) is generated (col. 6, lines 3-7)]; and

transmitting the change relationship signal to a parent node of the first network node so that the parent node receives an update of a state of the relationship between the first network node and the second network node [ when the user P moves from node A to node C, node C change its database to accommodate the change and instruct its parent node H (a parent node of the first network node) that the change has taken place (col.6, lines 18-26)].

As to claim 4, Wilby further discloses selectively updating the map of node relationships based on the change relationship signal such that the map of node relationships indicates the state of the relationship between the first network node and the second network node [updating the database (map) of the node relationships based on the changes that has taken place (selectively) (col. 6, lines 18-28& col. 7, lines 22-25)].

As to claim 5, Wilby further discloses further comprising the steps of:  
receiving a propagated change relationship signal indicating a change in a

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relationship between two network nodes other than the first network node [each parent node (second node) has plurality of child nodes (first network node) and the child nodes 3 can move from one parent to another Figs. 1& 5 col. 5, line 61-col. 6, line 28) and transmitting the propagated change relationship signal to the parent node, so that the parent node receives an update of a state of the relationship between the two network nodes (col. 7, lines 22-25).

As to claim 6, Wilby further discloses further comprising the step of:

updating the map of node relationships based on the propagated change relationship signal such that the map of node relationships indicates the state of the relationship between the two network nodes other than the first network node (col. 7, lines 22-25 & col. 8, lines 14-16).

As to claim 8, Wilby further discloses wherein the change relationship signal is a termination signal indicating the termination of the relationship between the first network node and the second network node [node informing its child node E that it no longer routes calls to user P that moved to one of its children (termination signal that indicates the termination between user P moved to node C (first node) and its previous parent node D (second node) and node E will tell its child node D (second node) (col. 6, lines 24-38)].

As to claim 9, Wilby further discloses wherein the change relationship signal is a creation signal indicating the creation of the relationship between the first network node and the second network node (col. 8, lines 33-46).

As to claim 10, Wilby further discloses wherein the step of detecting the change of the relationship comprises initiating a check-in communication from the second network node to the first network node (col. 8, lines 65-col. 9, line 15).

As to claim 11, refer to claim 1 rejection. Wilby further discloses a processor (col. 7, lines 44-54).

a memory [ database (col. 7, lines 22-25)].

As to claim 14, refer to claim 4 rejection.

As to claim 15, refer to claim 5 rejection.

As to claim 16, refer to claim 6 rejection.

As to claim 18, refer to claim 8 rejection.

As to claim 19, refer to claim 9 rejection.

As to claim 20, refer to claim 10 rejection.

As to claim 21, refer to claim 1 rejection. Wilby further discloses a computer program product (col. 7, lines 44-47).

As to claim 22, refer to claim 1 rejection. Wilby further discloses a computer program product (col. 7, lines 44-47).

*Claims 2,22 would be allowable if overcome the 112,2<sup>nd</sup> paragraph rejection.*

***Allowable Subject Matter***

9. Claims 3,7,13,17 would be allowable and rejection and rewritten in independent form including all of the limitations of the base claim and any intervening claims.



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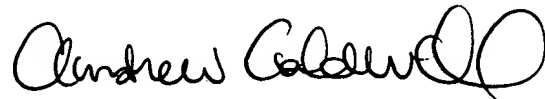
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hieu Le whose telephone number is (571) 272-3897.

The examiner can normally be reached on Monday to Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Caldwell Andrew, can be reached on (571) 272-3868. The fax phone number for this Group is (571)-273-3897.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 273-8300.

Hieu Le

A handwritten signature in black ink, appearing to read "Andrew Caldwell", with a stylized circular flourish at the end.

**ANDREW CALDWELL  
SUPERVISORY PATENT EXAMINER**